

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 556 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

and

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

PATEL SHANTABEN DAUGHTER OF KANJIBHAI PRABHUDAS

Versus

STATE OF GUJARAT

Appearance:

MR AMIT C NANAVATI for Petitioners

Mr S S Patel, AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE M.H.KADRI

and

MR.JUSTICE D.P.BUCH

Date of decision: 24/02/2000

ORAL JUDGMENT (per Kadri, J.)

Five petitioners are the owners of agricultural lands situated in the sim of village Vadnagar, District Mehsana. The lands of the petitioners came to be acquired for public purpose of Dharoi Canal by issuance of notification under Section 4(1) of the Land Acquisition Act (for short 'the Act') which was published in the Official Gazette on 31.5.1989. After following the usual procedure, the Land Acquisition Officer made his award on 25.10.1990 offering compensation of the acquired lands at Rs.2/- per sq. metre. The other owners of the agricultural lands filed applications under Section 18 of the Act for determination of compensation, requiring the Land Acquisition Officer to refer the applications to the District Court, Mehsana. The petitioners did not file applications under Section 18 of the Act. The applications which were filed by the other land owners were referred to the District Court which came to be numbered as Land Acquisition Reference Cases No.660 to 672 of 1991. The Reference Court, by judgment and award dated 15.4.1996 awarded additional compensation at Rs.8/- per sq. metre with other statutory benefits. The petitioners who had not filed applications under Section 18 of the Act, made application under Section 28-A of the Act before the Land Acquisition Officer for determination of compensation which was awarded by the Reference Court. The said applications were filed within the period of limitation prescribed under Section 28-A of the Act i.e. on 9.6.1996.

2. The petitioners made oral representation to the Land Acquisition Officer to decide their applications filed under Section 28-A of the Act. But the said representations were not considered and till the filing of the petition, the Land Acquisition Officer had not decided the applications of the petitioners filed under Section 28-A of the Act. The petitioners had preferred filing of this petition under Articles 226, 14 and 19 of the Constitution of India for issuance of writ or direction directing the third respondent to decide their applications filed under Section 28-A of the Act.

3. Respondent No.3 has filed his affidavit-in-reply, inter-alia, contending that as per Government Circular No.DhRP/4096/3382/114/K dated 8.5.1997 issued by Narmada Water Resources and Water Supply Department. The applications filed under Section 28-A of the Act require to be completed within six months by his office, However, it is stated that the records including the applications filed by the petitioners have been missing in his office. It is stated that the third respondent shall obtain

copies of the applications dated 7.6.1996 filed by the petitioners and shall decide the same by 31.8.2000. It is further stated by the third respondent that the judgment and award of the Reference Court dated January 15, 1996 has been acquiesced by the Government and intimation to that effect has already been received by his office in May 1997. In view of this affidavit-in-reply filed by the third respondent, who is personally present in the Court, we are of the view that this petition deserves to be allowed.

4. In view of the submissions made by the third respondent, in our view, this petition deserves to be allowed.

5. Third respondent, Mr D B Shah, Deputy Collector, Land Acquisition and Rehabilitation, Dharoi, Vatrak and other Project, Himatnagar is personally present in the Court and he is apprised of the order passed by this Court. We, therefore, direct him to take immediate action of deciding the applications of the petitioners filed under Section 28-A of the Act and make the payment of additional compensation on or before 31.8.2000.

6. For the foregoing discussions, this Special Civil Application is allowed. Rule is made absolute accordingly. No order as to costs.

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msp.